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November 2, 2016

Via ECF and Facsimile (718) 613-2125
Magistrate Judge Ramon E. Reyes, Jr.
United States District Court
Eastern District of New York
225 Cadman Plaza East, Room N208
Brooklyn, New York 11201

Re: *Martinez v. Vivid Mechanical LLC*
Case No. 16-Cv-03763-AMD-RER

Dear Judge Reyes:

We were recently retained on November 1, 2016 to represent the defendant, Vivid Mechanical LLC ("Vivid Mechanical"), in the above-referenced matter. We write to request permission to extend our time to oppose Plaintiff's motion for default judgment. Although we are still in the process of exploring several additional meritorious defenses for the failure to respond to Plaintiff's complaint, Vivid Mechanical's primary defense is that this Court lacks subject matter jurisdiction over this matter.

By way of background, on October 17, 2017, Plaintiff filed a motion for default judgment against Vivid Mechanical. (Dkt. No. 11). On November 1, 2016, this office conferred with Plaintiff's counsel to advise of our recent retention by Vivid Mechanical. During that telephone call, we requested that Plaintiff withdraw his motion for default judgment. Plaintiff refused to do so. Thus, we write to the Court for permission to extend our time to oppose Plaintiff's motion for default judgment.

As part of our intended opposition to Plaintiff's motion for default judgment, we will argue that Plaintiff has several meritorious defenses. Most notably, Vivid Mechanical intends to argue that this Court does not have subject matter jurisdiction over this matter. Based upon our reading of Plaintiff's complaint, there is no allegation that Plaintiff has exhausted his administrative remedies as required by Title VII of the Civil Rights Act of 1964. Specifically, Plaintiff has not alleged that he filed a charge with the EEOC, and he also not alleged that he received a "right to sue" letter from the EEOC. Thus, based upon the complaint, this Court does not have subject matter jurisdiction over this matter.

Should Your Honor require any additional information, we are available at the Court's convenience.

Thank you for your consideration in this matter.

Respectfully submitted,

GORDON & REES LLP

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cc: All Counsel of Record via ECF